

BRANDON | SMERBER
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Nevada Bar No. 5880
2 **ANDREW GUZIK, ESQ.**
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3 **HOMERO GONZALEZ, ESQ.**
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Attorneys for Defendant,
11 *99 CENTS ONLY STORES, LLC*

12 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

13 ELVIA WILLIAMS, an individual,

14 Plaintiff,

15 vs.

16 99 CENTS ONLY STORES, LLC,: DOES 1
17 through 100; and ROE CORPORATION 101
18 through 200, inclusive,

19 Defendants.

CASE NO.: 2:22-cv-139

20 **DEFENDANT, 99 CENTS ONLY STORES, LLC’S NOTICE OF REMOVAL OF**
21 **ACTION TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a)**

22 Defendant, 99 CENTS ONLY STORES, LLC, by its undersigned attorney, LEW
23 BRANDON, JR., ESQ., ANDREW GUZIK, ESQ., and HOMERO GONZALEZ, of BRANDON
24 | SMERBER LAW FIRM, hereby removes the above-captioned case to the United States District
25 Court, Clark County, Nevada, where the action is now pending, pursuant to 28 USC § 1441(a)
26 and states as follows:
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1 1. The above-entitled action was commenced in the Eighth Judicial District Court,
2 Clark County, State of Nevada on December 17, 2021, bearing Case No. A-21-845580-C. The
3 action is now pending in the Eighth Judicial District Court, Clark County, State of Nevada.

4 2. Plaintiff filed her initial complaint on or about December 17, 2021. Plaintiff's
5 Complaint fails to state that this case is one which is or has become removable. *See Harris v.*
6 *Bankers Life & Cas. Co.*, 425 F.3d 689 (9th Cir. 2005). Defendant, 99 Cents Only Stores, LLC.,
7 filed an Answer to the initial complaint on January 6, 2022.

8 3. On January 25, 2022, Plaintiff served upon Defendant, 99 Cents Only Stores,
9 LLC, her Petition for Exemption from Arbitration, wherein Plaintiff alleges that she sustained
10 general damages of approximately One Hundred Ninety-Three Thousand Four Hundred Fourteen
11 Thousand Dollars & 00/100 (\$193,414.00) with residual pain to her back that radiated down her
12 tailbone and legs. This Notice of Removal was filed timely as it was filed within thirty (30) days
13 of service of the Petition for Exemption from Arbitration served upon 99 Cents Only Stores, LLC,
14 which was the first motion, order or other paper from which it could first be ascertained that this
15 case is one which is or has become removable. *See* 28 U.S.C. 1446(b); *Harris*, 425 F.3d 689.

16 4. Pursuant to Fed. R. Civ. P. 6 (a), the last day of the thirty (30) day period set forth
17 under 28 U.S.C. 1446(b) is February 24, 2022. *See* 28 U.S.C. 1446(b); *Harris v. Bankers Life &*
18 *Cas. Co.*, 425 F.3d 689 (9th Cir. 2005).

19 5. This action concerns an allegation that the Defendant failed to design, construct,
20 control, supervise, repair and/or maintain the property in a reasonable and safe manner, causing
21 injury to Plaintiff.

22 6. At the commencement of this action and at the time of the filing of this Notice of
23 Removal, Plaintiff, ELVIA WILLIAMS was, and now is, a citizen of the State of Nevada.
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7. At the commencement of this action and at all times herein, Defendant, 99 CENTS ONLY STORES, LLC, was, and now is, a limited liability company duly organized and existing under the laws of the State of California with its principal place of business in California, and therefore, is a citizen of the State of California.

8. Upon information and belief, Plaintiff, ELVIA WILLIAMS' general damages and unknown future medical specials are approximately One Hundred Ninety-Three Thousand Four Hundred Fourteen Thousand Dollars & 00/100 (\$193,414.00) with residual pain to her back that radiated down her tailbone and legs. As a result, the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00).

9. The United States District Court for the District of Nevada has original jurisdiction pursuant to 28 U.S.C. § 1332 in that the parties are citizens of different States and the amount in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interests and costs.

10. Accordingly, Plaintiff's Complaint is removed pursuant to 28 U.S.C. 1441, which provides that a Defendant may remove a case over which the federal court has original jurisdiction.

11. A copy of all process and pleadings served upon the Defendant is attached hereto as Exhibit "1."

WHEREFORE, Defendant, 99 CENTS ONLY STORES, LLC, a California limited liability company respectfully requests that this action proceed in this Court as an action properly

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removed to it.

DATED this 26th day of January, 2022.

BRANDON | SMERBER LAW FIRM

/s/ Lew Brandon, Jr., Esq.

LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

ANDREW GUZIK, ESQ.

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HOMERO GONZALEZ, ESQ.

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139 East Warm Springs Road

Las Vegas, Nevada 89119

Attorneys for Defendant,

99 CENTS ONLY STORES, LLC

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on January 26, 2022, I served the foregoing
DEFENDANT, 99 CENTS STORE ONLY, LLC'S NOTICE OF REMOVAL OF ACTION
TO UNITED STATES DISTRICT COURT UNDER 28 USC § 1441(a) via the Court's
electronic filing and service systems to all parties on the current service list.

SCOTT L. POISSON, ESQ.

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/s/ Bonita Alexander

An Employee of BRANDON | SMERBER LAW FIRM